

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SUMER EDGER

Plaintiff,

-v-

BIG LOTS STORES, INC.

Defendant.

)
)
)
)
)
)
)
)
)
)

CASE NO. _____

JUDGE _____

NOTICE OF REMOVAL

Please take notice that, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446(a), Defendant Big Lots Stores, Inc. ("Big Lots") with a full reservation of its rights, defenses, exceptions, objections and claims, removes this action, which is now pending in the Superior Court of State of Delaware, Civil Case No. N17C-06-035 to the United States District Court for the District of Delaware. In support of removal, Big Lots states as follows:

1. Plaintiff Sumer Edger ("Edger") commenced an action against Big Lots by filing a complaint on or about June 2, 2017. That action bears the same title as the above caption and is docketed in the Superior Court of State of Delaware, Civil Case No. N17C-06-035 (hereinafter, the "State Action"). As required by 28 U.S.C. § 1446(a), a copy of the Summons and Complaint ("Compl.") is attached hereto as Exhibit A. No other pleadings or papers have been served on Big Lots.

TIMELY REMOVAL

2. Edger served a copy of the Complaint and Summons on Big Lots on June 26, 2017.

3. This Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b) because it is being filed within thirty days after service of the Complaint upon Big Lots.

4. The State Court Action is not a non-removable action listed in 28 U.S.C. § 1445.

GROUND FOR REMOVAL
Diversity Jurisdiction

5. This action is removable pursuant to 28 U.S.C. § 1441, which authorizes removal of any civil action brought in a state court in which the United States District Court for that district has original jurisdiction. This Court has original jurisdiction based upon diversity under 28 U.S.C. § 1332 and pursuant to 28 U.S.C. § 1441(b), because diversity of citizenship exists between Edger and Big Lots, and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

6. Edger is an individual and a resident of Delaware. (Compl. at ¶1.)

7. Big Lots is a corporation that is not incorporated in Delaware, and does not have a principal place of business in Delaware.¹ (Compl. at ¶ 2.)

8. The amount in controversy in this action exceeds the sum or value of \$75,000, exclusive of interest and costs. Although it is Big Lots' position that Edger is not entitled to any damages, counsel for Edger has represented that it intends to seek damages of over \$75,000. (See Declaration of Angela J. Gibson (attached hereto as Exhibit C) at ¶ 5.)

¹ The Complaint incorrectly states that Big Lots is a corporation organized under the laws of Virginia. Big Lots is an Ohio corporation organized under the laws of the State of Ohio. Its principal place of business is located in Columbus, Ohio. For purposes of diversity jurisdiction, Big Lots is a citizen of the State of Ohio. Nevertheless, as Big Lots is not a Delaware corporation, diversity of citizenship exists.

Other Requirements For Removal

9. No other party needs to consent to this removal.
10. Pursuant to 28 U.S.C. § 1446(d), Big Lots is giving written notice of this Notice of Removal to counsel of record for Plaintiff and is filing a copy of this Notice of Removal with the clerk of the Superior Court of State of Delaware.
11. This Court is the District Court embracing the place where the State Action is currently pending.
12. Big Lots is filing herewith a complete copy of the State Action Court file, which includes: the Complaint and Summons, attached hereto as Exhibit A and Entry of Appearance of Daniel P. Bennett, Esq. for Defendant, attached hereto as Exhibit B.
13. This Notice of Removal is being signed pursuant to Fed. R. Civ. P. 11.
14. Big Lots reserves the right to amend or supplement this Notice of Removal and to submit evidence in support thereof in the event that Edger moves to remand.

MINTZER, SAROWITZ, ZERIS, LEDVA
& MEYERS, LLP

/s/ Daniel P. Bennett
DANIEL P. BENNETT, I.D. #2842
Citizens Bank Center
919 North Market Street, Suite 200
Wilmington, DE 19801
(302) 655-2181
Attorney for Defendant
MSZL&M File No. 003853.000001

and

Mark A. Knueve (*pro hac vice to be filed*)
Vorys, Sater, Seymour and Pease LLP
52 East Gay Street
Columbus, OH 43215
Tel: 614-464-6387
Email: maknueve@vorys.com

Angela J. Gibson (*pro hac vice to be filed*)
Vorys, Sater, Seymour and Pease LLP
301 East Fourth Street
Cincinnati, Ohio 45202
Tel: 513-842-8136
Email: ajgibson@vorys.com

Attorneys for Big Lots Stores, Inc.

Date: July 17, 2017

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

SUMER EDGER,

Plaintiff,

v.

BIG LOTS STORES, INC.,

Defendant.

:
:
:
:
:
:
:
:
:
:

C.A. NO. N17C-06-035 CLS

TRIAL BY JURY OF 12
DEMANDED

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on July 17, 2017, a copy of the foregoing Notice of Removal with exhibits was served via electronic filing to:

Daniel C. Herr, Esquire
LAW OFFICES OF DANIEL C. HERR
1225 North King Street
Suite 1000
Wilmington DE 19801

Attorney for Plaintiff

MINTZER, SAROWITZ, ZERIS, LEDVA
& MEYERS, LLP

/s/ Daniel P. Bennett

DANIEL P. BENNETT, I.D. #2842
Citizens Bank Center
919 North Market Street, Suite 200
Wilmington, DE 19801
(302) 655-2181
MSZL&M File No. 003853.000001

Date: July 17, 2017